

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 681 of 1997

WITH

SPECIAL CIVIL APPLICATION NO. 682 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

MEHSANA DISTRICT CENTRAL CO OPBANK LIMITED

Versus

MEHSANA JILLA SAHKARI BANK KARMACHARI SANGH

Appearance:

MR GM JOSHI for Petitioner

MR UNVALA FOR PK JANI for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 17/03/97

ORAL JUDGEMENT

Heard learned counsel.

Rule. Mr.Unvala for Mr.P.K.Jani waives service of Rule in both the matters. Special Civil Application No. 681 of 1997 is directed against the order dated 5.3.1992 and Special Civil Application No. 682 of 1997 is directed

against the order dated 13.12.1996 whereby the Review Application of the petitioner against the order dated 5.3.1992 has been rejected. The dispute between the parties is on the question of making reference to the Full Bench for deciding the amount of House Rent Allowance as to whether it must be on the percentage Basic plus Dearness Allowance or the lumpsum amount as claimed by the concerned Karmachari Sangh. The Member, Industrial Court has opined that it was not necessary for him to refer the matter to the Full Bench because the Union had given pursish vide Exhibit 162 relating to demand No.1 for House Rent Allowance whereby it was submitted that it had no objection if the said demand is considered by the Court in lumpsum instead of percentage basis of Basic pay plus Dearness Allowance as originally claimed. The order dated 5.3.1992 is therefore innocuous on the face of it. The learned counsel for the respondent Karmachari Sangh has taken a stand before this Court while defending this order that the claim is for determining House Rent Allowance as the lumpsum amount is not solely on the basis of the Basis Pay but on the basis of the category. In view of this stand taken by the respondent, it is clear that the question of determination of the House Rent Allowance is involved in the matter which requires adjudication by Full Bench.

In Special Civil Application No. 682 of 1997 the review against the order dated 5.3.1997 has been rejected. Once it is clear after hearing both the sides that the reference to Full Bench is necessary so as to determine the question of House Rent Allowance and even if the respondent gives up claim to include Dearness Allowance it insists that the House Rent Allowance is to be determined as lumpsum amount keeping in view the Basic Pay with categorisation, the matters is yet required to be considered by the Full Bench.

For the reasons as aforesaid the impugned order challenged in each of these two Special Civil Applications i.e. order dated 5.3.1992 and the order dated 13.12.1996 respectively are hereby quashed and set aside. The matters shall therefore be referred to the Full Bench of the Industrial Court immediately for appropriate decision in accordance with law within a period of three months as agreed by both the sides. These Special Civil Applications are accordingly allowed and the Rule is made absolute in each of the matter in the terms as aforesaid. No order as to costs. Direct service is permitted.
